

Court of Appeals, State of Michigan

ORDER

John E Simpson v Caroline Simpson

Docket No. 260624

LC No. 03-723911 DO

Patrick M. Meter
Presiding Judge

William C. Whitbeck, CJ

Donald S. Owens
Judges

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is DENIED.

The Court orders, due to the age of this case, that court reporter Beth L Thomas file the transcript of the five proceedings within 21 days of the Clerk's certification of this order. Ms. Thomas shall receive from the appellant the appropriate fee for an expedited transcript of \$3.00 per page and 50 cents for each copy.

The Court orders on its own motion, as permitted by MCR 7.216(C)(1), that this matter is REMANDED to the trial court to hold a hearing and enter a judgment against William Carey (P-31602) for attorney fees and costs incurred by appellee in pursuing the requirement that a "full transcript of testimony and other proceedings" be ordered and filed. A review of this Court's file shows that an untrue attorney verification document was filed with the claim of appeal regarding the transcript, that two docketing statements were filed that were uncompleted as to the transcript, and that counsel for appellee warned counsel for appellant that he was not in compliance with the court rules regarding the transcript on four separate occasions (the answer filed April 20, 2005; the letters of June 9, 2005; and June 17, 2005; and the motion to show cause filed June 28, 2005). Counsel for appellant did not take proper action in response to any one of those warnings, nor did counsel properly respond to this Court's order of July 7, 2005. Although that order directed that the certificate be filed in this Court no later than July 18, 2005, counsel merely sent a letter to the court reporter on that date, and the certificate was not filed until July 27, 2005.

The Court retains jurisdiction over the underlying appeal.



Presiding Judge



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 08 2005
Date



Chief Clerk